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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fourth session

PROVISIONAL SUMMARY RECORD OF THE 1031st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 11 March 1994, at 3 p.m.

Chairman: Mr. GARVALOV

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The meeting was called to order at 3.25 p.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN, outlining the Committee's work schedule for the following week, said that he had just received a letter from the Mission of Senegal requesting a second postponement of the consideration of Senegal's tenth periodic report. He suggested that the Committee should use the time thus made available to consider the report by Mr. Alston (A/CONF.157/PC/62/Add.11/Rev.1).

2. Mr. ABOUL-NASR said that he saw no need to spend time discussing a report which was likely to contain little of interest to the Committee.

3. The CHAIRMAN recalled that the Committee had in fact taken up the Alston report at its preceding session. It contained a number of conclusions that were of concern to all treaty bodies, including the Committee, and some time should be set aside for an exchange of views on them. He invited the representative of the Secretary-General to provide further clarifications.

4. Mrs. KLEIN (Representative of the Secretary-General) explained that Mr. Alston was a professor of international law and had been a member of the Committee on Economic, Social and Cultural Rights since its establishment. He had been requested some years previously by the Commission on Human Rights to prepare a study on the operation of existing and prospective human rights treaty bodies and to submit it, through the Commission, to the General Assembly.

5. The first study had been submitted in 1988. Since that time, many changes had taken place, not only in the treaty bodies, but also in the whole United Nations system, and the Commission had accordingly invited Mr. Alston to update his study and to submit an interim report on that updating to the World Conference on Human Rights. The intention had been that he should submit a final version of the report to the current session of the Commission on Human Rights. The document before the Committee was in fact the interim version of the report and the final version was due to be completed in the course of the next few months.

6. The report was essentially a study which contained suggestions for the future development of the treaty system, and was intended chiefly as food for thought. It was, of course, up to the various treaty bodies to consider those suggestions and to accept or reject them as they saw fit.

7. Mr. RECHETOV thanked the representative of the Secretary-General for that explanation, which had finally enlightened him about a report which was constantly being referred to and to which some members seemed to attach supreme importance. However, there were many other documents equally worthy of consideration by the Committee, such as the working paper by the Special Rapporteur of the Sub-Commission, Mr. Chernichenko, on recognition of gross and large-scale violations of human rights perpetrated on the orders of Governments

or sanctioned by them as an international crime (E/CN.4/Sub.2/1993/10 and Corr.1). As had been pointed out, the final version of the Alston report had not yet appeared; it would thus be preferable to consider it at a later session.

8. Mr. ABOUL-NASR said that he fully shared that view. While he was grateful to the representative of the Secretary-General for her clarification, he believed it would be a waste of time to discuss a document which had not yet been finalized.

9. Mr. van BOVEN said it had been his suggestion that the Committee should take time to consider the Alston report, which had been before it since the preceding session. Its subject, the effective implementation of international human rights instruments, including reporting obligations, related to a very basic aspect of the Committee's regular work.

10. Mr. WOLFRUM pointed out that the report in fact contained specific criticisms of the Committee's own procedures and deserved consideration if on no other grounds.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 11)

11. The CHAIRMAN invited the Committee to consider three sub-items proposed by Mr. Banton, namely, the Programme of Action for the Third Decade adopted by the General Assembly; the Committee's contribution to the Third Decade; and the joint meeting of the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

12. Mr. BANTON drew attention to paragraph 19 of the annex to General Assembly resolution 48/91 on the Third Decade to Combat Racism and Racial Discrimination, which asked whether there had been any successful national models to eliminate racism and racial prejudices that could be recommended to States. The Committee was better equipped than any other organ of the United Nations to answer that question. Although there was no one particular model which would work for all States parties, there were some which had been shown to work well in one country and could be recommended to others.

13. He suggested that the Committee might consider that issue in connection with the periodic report of Canada. The system for training members of the judiciary which had recently been developed in Canada and included training material for judges in the form of videos on how to deal with situations of tension centring on ethnicity might be regarded as a successful model that could be recommended to others.

14. He had also circulated an informal paper, dealing with some of the issues raised in the report by Mr. Eide on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities (E/CN.4/Sub.2/1993/34/Add.1-4). He realized that it was unrealistic to expect all members of the Committee to give his paper their unqualified support. He had simply thought that it might be made available to the Sub-Commission as an expression of views held by individual members. He hoped it would serve as a

basis for discussion in preparation for the proposed joint meeting with the Sub-Commission.

15. Mrs. KLEIN (Representative of the Secretary-General) said that the Centre for Human Rights was indeed planning the gradual implementation of the proposals contained in the Programme of Action for the Third Decade (E/CN.4/1994/63). Two seminars were to be held in 1994, one to assess the experience gained in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, as proposed in paragraph 12 (a) of the Programme of Action, and the other on the eradication of incitement to racial hatred and discrimination, including the prohibition of propaganda activities and of organizations involved in them, as proposed in paragraph 12 (b) of the Programme. No dates had as yet been set for the seminars. The Centre was awaiting the conclusion of the fiftieth session of the Commission on Human Rights to finalize the arrangements. Experts from the Committee would of course be invited to participate in those seminars.

16. The CHAIRMAN said that that would be among the points he would be raising at the meetings he was due to have within a few days with the Assistant Secretary-General for Human Rights and other members of the Secretariat. He would inform the Committee of the outcome of those discussions.

17. Mr. van BOVEN, referring to the report by Mr. Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1994/66), recalled that, in view of the substantial contribution it could make to such a study on account of its long experience in such matters, the Committee had expressed an interest in being associated with the Special Rapporteur's work and had offered its collaboration and assistance. He was therefore somewhat disappointed to note that little attention had been given in the Special Rapporteur's very brief report to the Committee's work and experience, especially in the outline of working methods. The Chairman could perhaps raise the matter, which was of some concern to the Committee, at any meetings he had with the Centre for Human Rights or the Commission on Human Rights. In that connection, he wondered to what extent the Special Rapporteur's study would in fact be very innovative as compared with the many other studies on racial discrimination.

18. He endorsed Mr. Banton's comments on the need for a meaningful discussion with the Sub-Commission on Prevention of Discrimination and Protection of Minorities, recalling the somewhat unfocused discussion at the first joint meeting, held at a time when he and Mr. Diaconu had been members of the Sub-Commission. If such a meeting were held, he agreed that the Committee, or some of its members, should prepare some kind of working paper as a basis for the discussion, along the lines of the paper proposed by Mr. Banton.

19. Noting that international decades did not attract much public interest, he said that the Committee should make the most of the opportunities afforded by the Programme of Action for the Third Decade. A number of the suggestions it contained, especially concerning action at the international level, had been initiated by the Committee, which had a responsibility for ensuring that they were followed up. He fully agreed with Mr. Diaconu's comments, particularly

concerning the utilization of the Committee's expertise and experience in implementing the provisions of paragraphs 11 and 12 of the Programme of Action. The proposed seminars and report could make a very significant contribution to the implementation of the Decade. He welcomed the explanations by the representative of the Secretary-General and hoped that the question of the Committee's cooperation in such activities would be raised at the Chairman's meetings with officials from the Centre for Human Rights.

20. The CHAIRMAN said that he was particularly anxious to ensure that the joint meeting with the Sub-Commission would be of mutual benefit to both bodies and would not be a repetition of the somewhat unproductive first meeting. He had been given to understand informally that the Sub-Commission might wish to hold such a meeting at the earliest possible date and he therefore requested members to consider ways of preparing for it well in advance.

21. Mr. SHAHI asked whether the report by the Special Rapporteur of the Sub-Commission on gross and large-scale violations of human rights, referred to by Mr. Rechetov, could be made available to the Committee.

22. The CHAIRMAN said that he understood that the report in question was an interim report; the Secretariat would be requested to distribute it to Committee members.

23. Mr. VALENCIA RODRIGUEZ stressed the importance of coordinating the joint meeting so that it would be of optimum benefit to both parties. One of the Committee members, such as the Rapporteur, might perhaps be asked to meet members of the Sub-Commission and prepare a provisional document containing issues of concern to both bodies for discussion at the meeting after consideration by the Committee.

24. Mr. AHMADU suggested that one of the Committee members, past or present, might be invited to prepare an assessment of the achievements of the previous two Decades and recommendations for the Third Decade. With the Committee's wealth of experience, such a study might usefully complement the reports produced by various experts on aspects covered by the Decades.

25. The CHAIRMAN said that the Bureau would take account of the Committee's exchange of views on the item under consideration, together with the outcome of the Chairman's forthcoming discussion with the Assistant Secretary-General and would report back to the Committee.

26. Mr. ABOUL-NASR said that, if the joint meeting was to be productive and not just an exchange of views, the Chairman of the Committee might be invited to discuss possible objectives and desirable outcomes with the Chairman of the Sub-Commission.

27. The CHAIRMAN said that he would take note of that suggestion. He, too, hoped that the somewhat disappointing experience of the first joint meeting would not be repeated. Greater determination to achieve positive results was therefore

needed. He invited the members to put forward ideas which he could discuss with the Chairman of the Sub-Commission.

28. Mr. DIACONU said that, in contrast with the Committee, the Sub-Commission was a political emanation of the Commission on Human Rights, functioning more freely over a wider range of concerns. What might be gained from a successful joint meeting was improved mutual understanding of the two bodies' past and present activities and an exchange of information, including information on problems encountered in respect of violations, that they could both turn to good account in future.

29. There should be a focus to any discussions, which should relate to issues of mutual interest. One topic that came to mind was gross and large-scale violations of human rights: how did the two bodies deal with such violations and what were their respective assessments of the situation? Were there any possibilities of joint undertakings in that field? The Committee might also inquire about the Sub-Commission's forward planning and its comprehensive long-term prospective studies of topics relevant to the Committee's own concerns. There were doubtless a number of other subjects to make up a positive and promising agenda.

30. The CHAIRMAN said it was certainly true that the Committee and Sub-Commission were different in nature. He drew attention to operative paragraph 4 of Sub-Commission resolution 1993/3 recommending that arrangements should be made for the convening during its forty-sixth session in August 1994 of "a joint meeting between the Sub-Commission and the Committee ... with a view to the elaboration of recommendations concerning the comprehensive measures envisaged in paragraph 4 of Commission resolution 1993/20", which confirmed the importance of a "complementarity of economic, social, educational and information measures at the national level, including legislative, administrative and penal measures, and of measures taken at the international level".

31. Mr. VALENCIA RODRIGUEZ said that, although the two bodies might be different in nature, they could be seen as complementary. He believed that the Sub-Commission could be of particular assistance to the Committee in helping to ensure that States parties implemented the Convention, particularly articles 4 and 9; it could also help States parties with the briefing of delegations responsible for presenting periodic reports and the preparation of their replies to the Committee's questions on those reports. It might join the Committee in working out preventive and emergency measures. The Sub-Commission should be asked what reciprocal services it would like the Committee to provide.

32. Mr. ABOUL-NASR, recalling that the Committee had recently begun to widen its information sources, asked whether it had access to Sub-Commission documents that might complement its own materials. That was a question which the two Chairmen might discuss.

33. Mr. RECHETOV said that the possible establishment of a computerized database would be of great value in underpinning the work of the treaty bodies by bringing together material from reports prepared for and submitted to those bodies, to the

Sub-Commission and to the Commission and had been referred to in the interim Alston report (A/CONF.157/PC/62/Add.11/Rev.1). In his earlier comments, he had not intended to belittle that report. His concern had been that there was not enough time at present to consider it fully. In any case, it might be better to wait until the final version had been prepared.

34. Mrs. KLEIN (Representative of the Secretary-General) said that the Secretariat was well aware that the reciprocal availability to the treaty bodies, the Sub-Commission and other bodies of their own documentation, as well as easier access to information from other sources, was highly desirable. Such servicing was seriously hampered by the lack of staff, but, as a start, the compilation of country files might be possible in the not too distant future.

35. The Centre for Human Rights had long considered it to be a matter of urgency to establish a database and had been looking into ways and means of bringing together information from the treaty bodies, Sub-Commission studies, Special Rapporteurs and other sources. One outside firm had submitted a proposal. The problem now was to obtain pledges of financial contributions to take the matter further.

36. Mr. FERRERO COSTA said he believed that there was a consensus in the Committee on the principle of a joint meeting with the Sub-Commission. What must be determined was how the meeting could make greater progress than the preceding one and how it could be of mutual benefit. He agreed that the Sub-Commission could assist the Committee by promoting the implementation by States parties of article 9 of the Convention. He also thought that many problems of racial discrimination and the treatment of ethnic minorities could be dealt with jointly by the two bodies.

37. His role as the member of the Committee responsible for liaison with the Sub-Commission was limited to making contact at the time when both bodies were in session in August each year. Noting that both Mr. van Boven and Mr. Diaconu were former members of the Sub-Commission with considerable experience of its workings, he suggested that they should be able to establish and foster much more productive links. They might, for example, be invited to join the Chairman in discussing a substantive agenda with the Sub-Commission for the planned meeting.

38. Mrs. SADIQ ALI welcoming Mr. Banton's note on the joint meeting, said that massive and grave violations of human rights must be a matter of priority concern to the two bodies, which should certainly explore ways and means of working together.

39. The CHAIRMAN asked whether the Committee endorsed the principle of a joint meeting with the Sub-Commission, if possible in August 1994, with exploratory contacts beforehand to establish a list of topics for consideration. The members might also wish to think about the suggestion that Mr. van Boven and Mr. Diaconu should be invited to liaise with the Sub-Commission on the matter.

40. Mr. BANTON said he understood that the decision of principle had already been taken. What was important was to stress that the Committee's agreement to a

joint meeting with the Sub-Commission was subject to the condition that it should be productive.

41. The CHAIRMAN pointed out that the decision on the holding of a joint meeting had originated with the Sub-Commission. His concern was to establish that the Committee accepted that decision.

42. Mr. RECHETOV said that, whether a formal decision had been taken or not, he was sure that all members of the Committee were in favour of a joint meeting. However, as the first joint meeting had produced few tangible results, agreement would have to be reached on a limited number of priority issues to be discussed. He did not think that all contingencies were covered by the Convention. The need for a joint meeting was underscored by the fact that the Committee had for some time been going beyond the framework of the Convention in its search for solutions.

43. In his view, two major issues needed to be placed on the agenda. The first related to gross and large-scale violations of human rights perpetuated on the orders of Governments. Even leaving aside States parties which claimed that no such problems likely to give rise to violent ethnic conflicts existed within their jurisdiction, there was still an enormous volume of data to be considered in the case of other States parties. It would be useful to draw on the Sub-Commission's knowledge and experience in that area.

44. The second issue concerned preventive measures to forestall ethnic conflicts on the basis of the Committee's very complex proposal on early warning and urgent procedures (A/48/18, annex III), which was in danger of being misunderstood in its early stages by the States parties concerned. He was sure that a discussion with the Sub-Commission on the subject would be highly beneficial.

45. Mr. WOLFRUM agreed that a clear-cut programme for the joint meeting was essential. He added that his impression at the previous meeting had been that the Sub-Commission was less well prepared than the Committee. Given the volume of work that was accumulating for the August 1994 session, he would be averse to spending time on an ill-prepared meeting with the Sub-Commission that could be devoted to a thorough discussion of the reports of States parties.

46. The CHAIRMAN assured Mr. Wolfrum that the joint meeting would not be held at the expense of the Committee's substantive work. If the workload at the August session allowed no time for such a meeting, it would simply have to be rescheduled and held at a later date.

47. Mr. YUTZIS said that a meeting with the Sub-Commission would not only be stimulating for both parties, but would also serve the aim of publicizing the issues that were being discussed. It would create awareness of racially and ethnically motivated human rights violations and would be of considerable political importance, "political" being understood in the broad sense of the term.

48. The problem at the last meeting had been lack of preparation. He therefore suggested that Mr. Rechetov, who seemed to have very clear-cut views on the matter, and Mr. van Boven and Mr Diaconu as former members of the Sub-Commission should prepare a specific proposal for the agenda of the joint meeting and submit it to the Committee for consideration before the end of the current session.

49. The CHAIRMAN reiterated his earlier encouragement that the members of the Committee should share their views and suggestions on the joint meeting either with him or with Mr. Banton so that a recommendation on appropriate topics for discussion could be made to the Committee for approval the following week.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Tenth periodic report of Senegal (CERD/C/209/Add.7)

50. The CHAIRMAN asked the members of the Committee what course of action they suggested in response to Senegal's request for the postponement of the consideration of its report.

51. Mr. SHAHI said that, in his view, Senegal had treated the Committee in a somewhat cavalier fashion. The reason given for its failure to appear, namely, the indisposition of the presenter of its report, was not particularly convincing. He considered that the Committee should discuss the report in the State party's absence.

52. Mr. FERRERO COSTA said it was regrettable that such a communication should be received at so late a stage in the Committee's session. He asked the Country Rapporteur whether there was any urgent situation in Senegal calling for immediate discussion of the report.

53. Mr. DIACONU (Country Rapporteur) said that he was in favour of accepting Senegal's request for postponement. It seemed to him that there was not sufficient reason to cast doubt on the Government's goodwill.

54. Mr. AHMADU said he was surprised that the Committee was debating the case of Senegal when no such debate had taken place on a similar request from Canada. Senegal had responded positively when the Committee had criticized it many years previously for failing to submit reports or pay its contribution and, since then, its record had been considerably better than that of many other African States parties. He felt that it was wrong to say it had behaved in a cavalier manner. The Government had genuinely wanted to send a senior expert from home to present its report. If the report had been presented by junior officials, the Committee would have missed the opportunity for dialogue with someone in a position of authority. He was in favour of postponing the consideration of the report until the next session.

55. Mr. SONG Shuhua said that he agreed with Mr. Ahmadu. Senegal had not been treating the Committee lightly and all its reports had been informative. It was not a special case and its request for postponement until the August session should be accepted.

56. Mr. SHAHI said that, in the light of Mr. Ahmadu's statement, he would be in favour of acceding to Senegal's request and postponing the consideration of its report.

57. Mr. RECHETOV said that he would go along with the rest of the Committee, but did not feel comfortable with the decision in favour of postponement. Representatives of States parties had in the past managed to overcome very serious obstacles to appear before the Committee.

58. Quite apart from the case of Senegal, the question of non-appearance needed to be discussed. Some countries failed to submit reports, but sent representatives. Others submitted an acceptable report, but sent no representatives. How could the Committee function satisfactorily under such circumstances? States parties ought to be reminded of their very clear commitments under the Convention.

59. The CHAIRMAN said that he took it that the Committee agreed to Senegal's request for postponement.

60. It was so decided.

61. The CHAIRMAN noted that Senegal's request had in fact been a special case because the consideration of its report had had to be postponed twice.

62. He had heard comments that day by members of the Committee who had been somewhat critical of the way in which the session had been planned. In his view, such criticism was not justified inasmuch as requests for postponement were an unforeseeable contingency. It was indeed regrettable that the upshot would be an overcrowding of the agenda not only for the August 1994 session, but in all likelihood for the following session as well.

The meeting rose at 5.20 p.m.